

EXHIBIT C

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF WEST VIRGINIA

3 THE CITY OF HUNTINGTON,
4 Plaintiff,

Civil Action No.
3:17-01362

5 v.
6 AMERISOURCEBERGEN DRUG
CORPORATION, et al.,

7
8 Defendants.

-----X
9 CABELL COUNTY COMMISSION,
10 Plaintiff,

Civil Action No.
3:17-01665

11 v.
12 AMERISOURCEBERGEN DRUG
CORPORATION, et al.,

13
14 Defendants.

-----X

15 CROSS-NOTICED CAPTIONS ON FOLLOWING PAGES

16
17 Thursday, July 30, 2020

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CONFIDENTIALITY REVIEW

19
20 Remote Oral/Videotaped Deposition of
21 JOHN M. GRAY, held at the location of the
witness, commencing at 9:38 a.m. EDT on the
22 above date, before Michael E. Miller,
Certified Court Reporter, Registered
23 Diplomate Reporter, Certified Realtime
Reporter and Notary Public.

24 GOLKOW LITIGATION SERVICES
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25 deps@golkow.com

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1	STATE OF RHODE ISLAND)	SUPERIOR COURT
	PROVIDENCE, SC)	
2)	C.A. NO.
	STATE OF RHODE ISLAND by)	PC-2018-4555
3	and through PETER)	
	NERONHA, ATTORNEY)	
4	GENERAL, Plaintiff,)	
)	
5	v.)	
)	
6	PURDUE PHARMA, LP, et)	
	al, Defendants.)	
7)	

8			
9	-----		
10	IN THE CIRCUIT COURT FOR		
	KANAWHA COUNTY, WEST VIRGINIA		
11			
	IN RE: OPIOID LITIGATION)	Civil Action No.
12)	19-C9000
)	
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1 Q. How many times have you
2 testified in front of Congress on behalf of
3 the HDMA?

4 A. How many times did I testify
5 when?

6 Q. In your career, how many times
7 have you presented to Congress, sir, or the
8 Senate?

9 A. Probably 10 or 12 times at
10 least.

11 Q. Sir, the message, the public
12 relations message to Congress, to the Senate,
13 to state legislatures, to governors, to the
14 media, was that the distributors were
15 committed, were committed to stopping
16 diversion and abuse and addiction. That was
17 the message, true?

18 A. I have to go back and look at
19 all those. It's been many years since I
20 looked through all those proposals. And most
21 of these proposal items were never used.

22 Q. I'm not talking about the --
23 sir, I'm not talking about proposals. I'm
24 talking the actual message at the end of the
25 day, the message that you're delivering to

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1 Q. Do you remember when we looked
2 back and we talked about it earlier, we
3 talked about the Crisis Playbook, where your
4 PR firm said, hey, if anybody ever asks, make
5 sure you tell them that the distributors
6 always put safety over money? Do you
7 remember that, sir, we talked about that?

8 A. No, not really.

9 Q. Always put safety over money.
10 So what we have here -- and
11 again, you can correct me if I'm wrong, but
12 the RAND study that was going to look for
13 answers and save lives never went forward,
14 the partnership study that was going to look
15 for answers to try to save lives was never
16 funded, and now the task force summit in
17 West Virginia is canceled the day before it's
18 supposed to get off the ground because you're
19 worried about a lawsuit?

20 A. No.

21 MR. WEINSTEIN: Wait for the
22 question, John. Wait for a question.

23 THE WITNESS: Yeah.

24 BY MR. KENNEDY:

25 Q. Let me ask you, sir. Is

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1 A. Yep.

2 Q. The HDMA played a significant
3 role in getting that legislation passed.
4 Would that be true?

5 MR. WEINSTEIN: Objection to
6 form.

7 A. True.

8 BY MR. KENNEDY:

9 Q. Yes, sir?

10 A. I said true.

11 Q. All right. I'm sorry. In
12 fact, you folks hired a third-party outside
13 lobbyist group to work directly on that
14 legislation, did you not?

15 A. Well, we have a number of them.
16 I don't know if they're hired just for that,
17 but they might have worked on it, I'm sure.

18 Q. Do you remember interviewing
19 different lobbyist organizations and trying
20 to find the lobbyist group that had the
21 strongest relationship with Congressman
22 Marino?

23 A. Well, I didn't personally. My
24 staff may have.

25 Q. When originally drafted, the

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1 BY MR. KENNEDY:

2 Q. Did you realize that, sir?

3 A. I can't say I did or I didn't.

4 Q. Nine years before you wrote
5 this brief, the DEA had a personal meeting
6 with you folks and said we can't do the job
7 ourselves. There's too many pharmacies.
8 They told you that, did they not?

9 MR. WEINSTEIN: Objection to
10 form.

11 A. Again, I wasn't in the room
12 when these comments were made, so I don't
13 know if this is exactly how they pressed it.
14 The only thing I heard was that they expected
15 truck drivers, which are commercial truck
16 drivers, to sit in parking lots and watch
17 customers going into a pharmacy. That's the
18 only thing I heard.

19 BY MR. KENNEDY:

20 Q. Sir, you folks -- you, your
21 executive committee, your board, McKesson,
22 Cardinal, AmerisourceBergen, you folks wrote
23 this amicus brief because it was your
24 intention and it was your expectation that
25 the Court in Masters was going to stop the

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1 enforcement actions by the DEA. That was
2 your expectation, was it not, sir?

3 MR. WEINSTEIN: Objection to
4 form.

5 A. No, the expectation was --
6 yeah, the expectation was on a particular
7 point of administrative law, which I couldn't
8 get into with you right now, but I do
9 remember at the time it was a specific issue,
10 and that's what it was all about. It had
11 nothing to do with Masters, per se. It had
12 nothing to do with even the DEA. It was an
13 interpretation of administrative law.

14 BY MR. KENNEDY:

15 Q. Look at Exhibit 55.

16 (Whereupon, Deposition Exhibit
17 Gray-55, E-mail(s), HDA_MDL_000088021-
18 HDA_MDL_000088025, was marked for
19 identification.)

20 A. 55. Okay.

21 BY MR. KENNEDY:

22 Q. This is 55. You see the second
23 e-mail down where -- this is the e-mail from
24 you to Pat Kelly.

25 A. Uh-huh. Yep.

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1 That's the Masters case, right?

2 A. Correct.

3 Q. Then you state: I think the
4 Masters case will stymie the DEA in pursuing
5 much enforcement since that outcome will
6 really dictate how the DEA can enforce.

7 Is that what you stated, sir?

8 A. Right. That's what it says.

9 Q. And that was the intention of
10 the HDA all along, starting with the PR
11 program back in 2012, let's stymie
12 enforcement actions by the DEA. And you
13 finally thought you had with the Masters
14 case, did you not?

15 MR. WEINSTEIN: Objection to
16 form.

17 A. That's your -- oh, I'm sorry.
18 That's your opinion, your interpretation.
19 It's not ours.

20 BY MR. KENNEDY:

21 Q. Those are your words.

22 MR. WEINSTEIN: Objection to
23 form.

24 BY MR. KENNEDY:

25 Q. Stymied. Correct, sir?

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1 Q. You say: Only the DEA has the
2 complete picture. Correct?

3 A. That's correct.

4 Q. And when you told Congress
5 that, sir, that was simply not true.

6 MR. WEINSTEIN: Objection to
7 form.

8 BY MR. KENNEDY:

9 Q. Right?

10 MR. WEINSTEIN: Objection to
11 form.

12 BY MR. KENNEDY:

13 Q. That was not true?

14 MR. WEINSTEIN: Objection to
15 form.

16 A. No, we did not know that to be
17 not true.

18 BY MR. KENNEDY:

19 Q. Your talking points, look at
20 Exhibit 29.

21 (Whereupon, Deposition Exhibit
22 Gray-29, 10/17/16 HDA Talking Points
23 on Resources on Prescription Drug
24 Abuse, HDA_MDL_000032191 -
25 HDA_MDL_000032203, was marked for

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1 to review the amicus brief before it gets
2 filed with the Court.

3 Do you see that?

4 A. I see it.

5 Q. And at the bottom it says:
6 Please let me know as soon as possible
7 whether or not you support filing this brief.

8 Do you see that? Maybe -- it's
9 the final paragraph. You see that?

10 A. Yeah, got it.

11 Q. So you're asking the executive
12 committee to review the Cardinal amicus brief
13 that the HDA has paid to have written, and
14 you're saying take a look at it and see if
15 this is okay for us to file.

16 So --

17 MS. WADHWANI: Objection to
18 form.

19 BY MR. KENNEDY:

20 Q. -- go back to the first page,
21 go back -- go back to the first page now.

22 A. Right.

23 Q. And you'll see now the response
24 from Dale Smith of HD Smith, starts with --
25 it's March 5, 2012, Dale Smith is writing you

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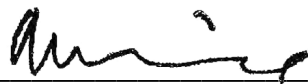
CERTIFICATE

I, MICHAEL E. MILLER, Fellow of the Academy of Professional Reporters, Registered Diplomat Reporter, Certified Realtime Reporter, Certified Court Reporter and Notary Public, do hereby certify that prior to the commencement of the examination, JOHN M. GRAY was duly sworn by me to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a verbatim transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that pursuant to FRCP Rule 30, signature of the witness was not requested by the witness or other party before the conclusion of the deposition.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.



MICHAEL E. MILLER, FAPR, RDR, CRR
Fellow of the Academy of Professional Reporters
NCRA Registered Diplomat Reporter
NCRA Certified Realtime Reporter
Certified Court Reporter

Notary Public

My Commission Expires: 7/9/2024

Dated: July 31, 2020